

House Engrossed Senate Bill

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 169

# SENATE BILL 1084

AN ACT

AMENDING SECTION 20-1631, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-1631, Arizona Revised Statutes, is amended to read:

20-1631. Definition of motor vehicle; cancellation of or failure to renew coverage; limitations; limitation of liability; exceptions; insurance producers

A. In this article, unless the context otherwise requires, "motor vehicle" means a licensed land, motor-driven vehicle but does not mean:

1. A private passenger or station wagon type vehicle used as a public or livery conveyance or rented to others.

2. Any other four-wheel motor vehicle of a load capacity of fifteen hundred pounds or less which is used in the business of transporting passengers for hire, used in business primarily to transport property or equipment, used as a public or livery conveyance or rented to others.

3. Any motor vehicle with a load capacity of more than fifteen hundred pounds.

B. A motor vehicle used as a public or livery conveyance or rented to others does not include a motor vehicle used in the course of volunteer work for a tax-exempt organization as described in section 43-1201, paragraph 4.

C. An insurer shall not cancel or refuse to renew a motor vehicle insurance policy solely because of the location of residence, age, race, color, religion, sex, national origin or ancestry of anyone who is an insured.

D. An insurer shall not issue a motor vehicle insurance policy in this state unless the cancellation and renewal conditions of the policy or the endorsement on the policy includes the limitations required by this section. After a policy issued in this state has been in effect for sixty days, or if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel or fail to renew the insurance afforded under the policy unless:

1. The named insured fails to discharge when due any of the obligations of the named insured in connection with the payment of premium for this policy or any installment of the premium.

2. The insurance was obtained through fraudulent misrepresentation.

3. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy:

(a) Has had ~~his or her driver's~~ THE PERSON'S DRIVER license suspended or revoked during the policy period.

(b) Becomes permanently disabled, either physically or mentally, and such individual does not produce a certificate from a physician testifying to such person's ability to operate a motor vehicle.

(c) Is or has been convicted during the thirty-six months immediately preceding the effective date of the policy or during the policy period of:

1 (i) Criminal negligence,— resulting in death, homicide or assault,—  
2 AND arising out of the operation of a motor vehicle.

3 (ii) Operating a motor vehicle while in an intoxicated condition or  
4 while under the influence of drugs.

5 (iii) Leaving the scene of an accident.

6 (iv) Making false statements in an application for a ~~driver's~~ DRIVER  
7 license.

8 (v) Reckless driving.

9 4. The insurer is placed in rehabilitation or receivership by the  
10 insurance supervisory official in its state of domicile or by a court of  
11 competent jurisdiction or the director has suspended the insurer's  
12 certificate of authority based on its financially hazardous condition.

13 5. The named insured, any person who resides in the same household as  
14 the named insured and customarily operates a motor vehicle insured under the  
15 policy or any other person who regularly and frequently operates a motor  
16 vehicle insured under the policy uses a motor vehicle rated or insured under  
17 the policy as a private passenger motor vehicle regularly and frequently for  
18 commercial purposes.

19 6. The director determines that the continuation of the policy would  
20 place the insurer in violation of the laws of this state or would jeopardize  
21 the solvency of the insurer.

22 7. IF THE INSURED AND THE INSURED'S FAMILY MEMBERS ARE ELIGIBLE FOR  
23 INSURANCE BASED SOLELY ON THE INSURED'S EMPLOYMENT WITH THE INSURER,  
24 EMPLOYMENT OF THE INSURED WITH THAT INSURER IS TERMINATED AND THE INSURER  
25 EXERCISES ITS RIGHT TO NONRENEW THE POLICY WITHIN TWELVE MONTHS FOLLOWING THE  
26 INSURED'S TERMINATION OF EMPLOYMENT.

27 E. In addition to the authorization to fail to renew insurance  
28 provided by subsection D of this section, an insurer may exercise its right  
29 to fail to renew a motor vehicle insurance policy pursuant to this  
30 subsection. An insurer shall provide notice of the nonrenewal to the named  
31 insured as prescribed by section 20-1632 at least forty-five days before the  
32 nonrenewal. A named insured who disputes the nonrenewal of the named  
33 insured's policy may file an objection with the director pursuant to section  
34 20-1633. An insurer shall not fail to renew more than one-half of one per  
35 cent of its policies annually pursuant to this subsection. An insurer may  
36 fail to renew a motor vehicle insurance policy if the named insured, any  
37 person who resides in the same household as the named insured and who  
38 customarily operates a motor vehicle insured under the policy or any other  
39 person who regularly and frequently operates a motor vehicle insured under  
40 the policy has had at any time during the thirty-six months immediately  
41 before the notice of nonrenewal three or more at-fault accidents under any  
42 motor vehicle insurance policy issued by this insurer in which the property  
43 damage paid by the insurer for each accident which occurred prior to January  
44 1, 2000 is more than one thousand eight hundred dollars. For accidents  
45 occurring on or after January 1, 2000, the department of insurance shall

1 annually adjust and publish, to the nearest ten dollars, the threshold amount  
2 of property damages in this subsection by the percentage change in the all  
3 items component of the consumer price index for all urban consumers of the  
4 United States department of labor, bureau of labor statistics. The insurer  
5 shall not exercise its right to fail to renew the insurance under this  
6 subsection unless the same individual has had all the accidents that make the  
7 policy subject to nonrenewal under this subsection. The insurer shall not  
8 exercise its right to fail to renew a motor vehicle insurance policy pursuant  
9 to this subsection due to the accident record of the named insured if the  
10 named insured has been insured for standard automobile bodily injury coverage  
11 for at least ten consecutive years with the same insurer prior to the most  
12 recent accident that makes the policy subject to nonrenewal under this  
13 subsection. For THE purposes of this subsection, "at-fault" means the  
14 insured is at least fifty per cent responsible for the accident.

15 F. The company shall not cancel or fail to renew the insurance when a  
16 person other than the named insured has violated subsection D, paragraph 3 of  
17 this section, or fail to renew the insurance pursuant to subsection E of this  
18 section due to the driving record of an individual other than the named  
19 insured, if the named insured in writing agrees to exclude as insured the  
20 person by name when operating a motor vehicle and further agrees to exclude  
21 coverage to the named insured for any negligence which may be imputed by law  
22 to the named insured arising out of the maintenance, operation or use of a  
23 motor vehicle by the excluded person. The written agreement that excludes  
24 coverage under a policy for a named individual is effective for each renewal  
25 of the policy by the insurer and remains in effect until the insurer agrees  
26 in writing to provide coverage for the named individual who was previously  
27 excluded from coverage.

28 G. This article does not apply to any policy which has been in effect  
29 less than sixty days at the time notice of cancellation is mailed or  
30 delivered by the insurer unless the policy is a renewal policy, or to  
31 policies:

32 1. Insuring any motor vehicle other than a private passenger motor  
33 vehicle as defined in section 20-117.

34 2. Insuring the motor vehicle hazard of garages, motor vehicle sales  
35 agencies, repair shops, service stations or public parking places.

36 3. Providing insurance only on an excess basis.

37 H. If a consumer purchases motor vehicle insurance coverage from an  
38 insurance producer licensed in this state, the insurance producer, ~~whichever~~  
39 THAT owns the policy expiration, shall remain the insurance producer of  
40 record for that insured. In the event the insurer terminates the insurance  
41 producer's contract, the insurance producer shall continue to provide  
42 customary services to the insured. The insurer shall provide the insurance  
43 producer with a minimum degree of authority necessary to provide customary  
44 services to the insured and shall provide the same level of compensation for

1 these services which were in effect prior to the termination of the insurance  
2 producer contract.

3 I. Subsection H of this section shall not apply if one or more of the  
4 following conditions exist:

5 1. The insurance producer of record has had its license suspended or  
6 revoked by the department.

7 2. The insurance producer of record is indebted to the insurer.

8 3. The insured has supplied the insurer with a written request that  
9 its insurance producer of record be changed to another insurance producer of  
10 the insurer.

11 4. The insurance producer of record has authorized transfer of this  
12 account to another licensed insurance producer of the insurer.

13 5. The director has determined after a public hearing that  
14 continuation of this relationship is not in the best interest of the public.

15 6. The insurance producer of record is under an exclusive contract or  
16 contract requiring the insurance producer to submit all eligible business to  
17 an insurer or group of insurers under a common management.

18 J. Subsection H of this section shall not apply to any transaction in  
19 which the expiration of the policies is owned by the insurer.

20 K. Notwithstanding any law to the contrary, the issuance at renewal of  
21 revised policy provisions to modify an existing policy by adding coverages or  
22 policy provisions, modifying coverages or policy provisions, or eliminating  
23 coverages or policy provisions is not a nonrenewal or cancellation of the  
24 policy if the modification of a basic coverage does not eliminate the  
25 essential benefit of that basic coverage. If the modification of the basic  
26 coverage eliminates the essential benefit of the basic coverage, the director  
27 shall order the insurer to remove the modification from the policy. This  
28 subsection does not allow the insurer, without the written consent of the  
29 insured, to eliminate the basic coverages of the policy or to reduce the  
30 monetary limits of any of the basic coverages of the policy that were  
31 selected and agreed on. This subsection does not limit a policyholder from  
32 continuing to renew uninsured or underinsured motorist coverage pursuant to  
33 section 20-259.01. For the purposes of this subsection, "basic coverage"  
34 means any of the following:

35 1. Bodily injury coverage.

36 2. Property damage coverage.

37 3. Uninsured motorist coverage.

38 4. Underinsured motorist coverage.

39 5. Medical payments coverage.

40 6. Comprehensive coverage.

41 7. Collision coverage.

42 L. For THE purposes of this section, "fail to renew" or "nonrenewal"  
43 does not include the issuance and delivery of a new policy within the same  
44 insurer or an insurer under the same ownership or management as the original  
45 insurer as provided in this subsection. An insurer may transfer up to one

per cent of its policies to an affiliated insurer within one calendar year if under a policy to be transferred one or more of the insureds that are insured under the policy have individually within the past thirty-six months had two or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident exceeded one thousand five hundred dollars or individually have had three or more moving violations. Moving violations for which an insured completes an approved traffic school program shall not be considered as a moving violation under this section. A company shall not transfer a policy if a named insured agrees in writing to exclude as an insured a person or persons who each individually meet the criteria for transfer pursuant to this subsection and further agrees to exclude coverage for any negligence which may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by such excluded person or persons. An insurer shall transfer only those individuals responsible for the at-fault accidents or moving violations, and the excluded or transferred insured's driving record shall not be used in determining rates, surcharges or premiums for the nonexcluded or nontransferred insured. The one per cent limit set forth in this subsection shall not apply to transfers of policies from the original insurer to another insurer under the same ownership or management as the original insurer if the rates charged by the other insurer are THE SAME AS OR lower than the rates charged by the original insurer. No insurer shall transfer policyholders because of their location of residence, age, race, color, religion, sex, national origin or ancestry. Transfers by an insurer pursuant to this subsection shall not be construed to permit a new unrestricted sixty day period for cancellation or nonrenewal.

M. Except as provided in this subsection, an insurer shall not refuse to renew a policy until after August 31, 1998, based on an insured's failure to maintain membership in a bona fide association, until both the insurer and bona fide association have complied with this subsection and shall not refuse to renew any coverage continuously in effect before September 1, 1998, subject to all the following:

1. In addition to any other reason provided in this section, an insurer may refuse to renew an insurance policy issued pursuant to this article if all of the following conditions apply:

(a) The insurer clearly discloses to the applicant and the insured in the application for insurance and insurance policy that both the payment of dues and current membership in the bona fide association are prerequisites to obtaining or renewing the insurance.

(b) Any money paid to the bona fide association as a membership fee:

(i) Is not used by the insurer directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.

(ii) Is set independently of any factor used by the insurer to make any judgment or determination about the eligibility of any individual,

1 including the member, an employee of a member or a dependent of a member, to  
2 purchase or renew the insurance.

3 (c) The bona fide association has filed a certification with the  
4 director verifying the eligibility of the insurer to refuse to renew an  
5 insurance policy based on membership in the bona fide association.

6 2. To qualify as a bona fide association pursuant to this subsection,  
7 the association shall meet all of the requirements of this paragraph. The  
8 association shall file a statement with the director at least thirty days  
9 before the commencement of the offer or sale of insurance as provided by this  
10 subsection verifying that the association meets the requirements of this  
11 paragraph. The association shall update the filing required by this  
12 paragraph at least thirty days before the effective date of any material  
13 change in the information contained in the statement, and shall file a  
14 separate notice with the director if the insurance described in the statement  
15 is no longer available through the association. The statement shall include  
16 the following information:

17 (a) That the association has been in active existence for at least  
18 five consecutive years immediately before the filing of the statement.

19 (b) That the association has been formed and maintained in good faith  
20 for purposes other than obtaining or providing insurance and does not  
21 condition membership in the association on the purchase of insurance.

22 (c) That the association has articles of incorporation and bylaws or  
23 other similar governing documents.

24 (d) That the association does not condition membership in the  
25 association or set membership fees on the eligibility of any individual,  
26 including the member, an employee of the member or a dependent of the member,  
27 to purchase or renew the insurance, or on any factor that the insurer could  
28 not lawfully consider when setting rates.

29 (e) That the association has a relationship with a specific insurer or  
30 insurers and identifies the insurer or insurers.

31 3. Membership fees collected by the bona fide association are not  
32 premiums of the insurer that issued the coverage unless the bona fide  
33 association:

34 (a) Uses any portion of the membership fees directly or indirectly to  
35 defray any costs or expenses in connection with the sale or purchase of the  
36 insurance.

37 (b) Sets or adjusts membership fees for any member of the bona fide  
38 association based on any factor used by the insurer that issues the insurance  
39 to make any judgment or determination about the eligibility of any  
40 individual, including the member, an employee of the member or a dependent of  
41 the member, to purchase or renew the insurance.

42 4. If the membership fees constitute premiums pursuant to paragraph 3  
43 of this subsection, an insurer shall not refuse to renew a policy as  
44 otherwise permitted by this subsection.

APPROVED BY THE GOVERNOR APRIL 22, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2005.

Passed the House April 11, 20 05

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

## Speaker of the House

**Chief Clerk of the House**

Passed the Senate January 27, 20 05

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

President of the Senate

**Secretary of the Senate**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

**This Bill** was received by the Governor this

                     day of                     , 20      .

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Secretary to the Governor**

Approved this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Governor of Arizona**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

~~This Bill was received by the Secretary of State~~

this            day of           , 20  ,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

**Secretary of State**

**S.B. 1084**



SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate April 18, 2005,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

John Bennett  
President of the Senate

Charmine B. Belfrage  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2005

at 8:05 o'clock a. M.

Wendy Lybarra  
Secretary to the Governor

Approved this 22 day of

April, 2005,

at 1:55 o'clock P. M.

J. R. Mc  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of April, 2005

at 3:53 o'clock P. M.

Janice K. Brewer  
Secretary of State